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12 MAY 1978

Honorable Richardson Preyer, Chairman
Subcommittee on Government Information
and Individual Rights
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your comments of 24 April 1978 on our report on the CIA's administration of the Freedom of Information Act during 1977. I am pleased that your impression of our handling of FOIA requests is a favorable one.

I share your concern about the growing backlog of FOIA and Privacy Act requests in our Agency and some weeks ago directed that a systems analysis be conducted to determine whether a more efficient way of handling these requests might be developed. That study is currently underway and I will not have its results for several months. The GAO review of the FBI's program which you provided will be of considerable use to us in our analysis of our own FOIA program, and I thank you for sending it. I assure you that if ways can be found to reduce the backlog, they will be employed with enthusiasm. It will be difficult, however, for us to consider any program changes which would significantly increase the amount of manpower already allocated to these tasks, particularly at a time when the Agency is under pressure to further reduce its size. As noted in my letter of 1 March 1978 which transmitted our 1977 report, we are employing the employees on the FOIA/Privacy Act process, a larger allocation than that of 1976. With these resources we are able to complete about 65 cases each week, but the flood of requests shows no sign of abating and our production represents only about two-thirds of our new requests, so the backlog continues to grow. Any additional allocation of resources would be at the expense of essential intelligence activities and would have to be approved by our House and Senate oversight committees.

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As I said in my March letter, we continue to make every effort to comply fully with the letter of the FOI Act. Our concern grows, however, that the U.S. public is not being well served by the fact that CIA documents are releasable, in whole or in part, under the Act. You will recall, perhaps, the furor caused by the publication of a pro-Palestinian group of a raw intelligence report which claimed that the Israeli Government had intentionally attacked a U.S. Navy vessel during the 1967 Arab-Israeli war. Under FOIA we could not withhold the document, even though we knew it to be inaccurate. Release and publication of fragmentary information does our nation a disservice, but frequently fragments are all we can release without revealing intelligence sources or methods, properly protected by other statute.

Even when publication does not occur, we find that a great deal of our review effort goes into the line-by-line, even word-by-word review of requested documents to delete information which must be protected. The result is frequently a "lace-doily document," of no practical use to the requester. The product of all this painful, costly effort has little informational value, and as taxpayers ourselves we question whether the work is worth the millions being 'spent. In this regard, it is worth noting that judicial review has consistently upheld our collective judgments to exempt specific information from release.

Our problems with the FOIA have caused us to ask whether amendments can be made to provide broader exemptions for intelligence material, particularly raw reports and operational data. We have also asked whether the benefits of the Act should be available only to U.S. citizens and resident aliens, whether the mandatory response time should be lengthened to provide more realistic target dates, whether agencies should be permitted to charge requesters for time spent reviewing documents for segregable release material, and whether requests should be limited to one specific subject rather than permitting blanket requests covering a variety of topics.

In your letter you express concern about use of the (b)(7) exemption more frequently in appeal cases than in initial responses. We use (b)(7) at the request of the FBI on FBI information in CIA documents. There are several reasons why this can happen more frequently on appeals. Detailed research on appeals, sometimes supported by additional information in the appellant's letter, can uncover documents not

located during initial search. It is also possible that some of our 13 "excess" (b)(7)'s involved FBI data not referred to the Bureau during initial processing (because protection under (b)(3) seemed adequate) or not discovered to be of FBI origin until the appeal review.

We would welcome the opportunity to discuss these and related problems with members of the subcommittee staff. Our Office of Legislative Counsel can put your staff director in touch with my Assistant for Information or with the Chief of our Information and Privacy Staff.

Respectfully,

/s/ John F. Blake
John F. Blake
Deputy Director
for
Administration

cc: Senate Select Committee on Intelligence,
House Permanent Select Committee on Intelligence

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(11 May 1978)

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